

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.8279 of 1997

Dated:12.03.2007

Between

G.Bikshapathy

.....Petitioner

and

1.Govt of AP rep., by its
Secretary, Revenue Department
Secretariat, Hyderabad and
Others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

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ORDER:

This writ petition is filed seeking a Mandamus to direct the respondents 5 and 6 to protect the legitimate right of the petitioner in their establishment as Fitter by absorption in a regular scale of pay, allowances etc., attached to the post as a candidate duly sponsored by the 4th respondent as a displaced person (oustee), whose land was acquired for the purpose of Bharat Dynamics Limited, by including him under the scheme evolved and settled between the Management and the Union regarding the absorption of the casual workers.

It appears that the petitioner was a displaced person in view of acquisition of his land by the Government of A.P for the purpose of Bharat Dynamics Limited. According to the petitioner, his

land to a certain extent situated in Sy.No.383/A at Bhanoor village was acquired and compensation was paid. However, as per the policy evolved by the Central and the State Governments, whenever a person is displaced from his land by way of acquisition for the purpose of establishment of any project or company or Factory, such displaced person is required to be rehabilitated besides paying compensation. Further, pursuant to the recommendations made by the District Collector, Medak District, the name of the petitioner was sponsored by Employment Exchange as a land oustee for the purpose of absorption into the service of BDL. The petitioner studied ITI (Fitter) and is also National Apprenticeship Certificate holder. He was initially appointed as a Fitter on consolidated pay from 15.10.1994 to 31.3.1995 i.e., for 167 days and after giving a short artificial break of service, the respondent-Company again appointed him on its rolls from 15.4.1995 to 14.4.1996 i.e., for 365 days. The respondent-Company once again gave another short artificial break of service and re-employed him from

30.5.1996 to 3.11.1996 i.e., for 152 days.

Except these artificial breaks, the service of the petitioner was continued from 15.10.1994 to 30.11.1996. In spite of the same, the respondent company has not engaged the petitioner with effect from 1.12.1996 which amounts to illegal termination. Therefore, the present writ petition.

A detailed counter-affidavit has been filed by the 5th and 6th respondents stating that this writ petition is not maintainable. There is no legal right for the petitioner to claim employment. It is strictly for the management to recruit persons for the jobs which they require. No one has a right to insist that he should be selected by the Management and be employed. The petitioner's claim as a land oustee itself is disputed. His land was not acquired by it. Further, the records do not reveal that his land had been acquired by the Government. There is no provision under the Land Acquisition Act (for short 'the Act') to give employment. What is contemplated under the Act is payment of compensation and nothing more. The fact is that the Revenue Divisional Officer had

scrutinized certain claims made by the land oustees and gave a list of 252 persons to the management for the purpose of recruitment and their cases were scrutinized and management found that 82 were eligible for being appointed and they were appointed by the management as per the memorandum of understanding entered into. This is the result of the discussion and understanding reached by the management with the revenue officials, Sarpanchs and the Union leaders. The name of the petitioner was not at all there. His land was never acquired. The claim of the petitioner that his land was acquired is not correct. However, it is admitted that he was working as a Fitter in a temporary vacancy, which arose now and then. It is denied that the management in order to see that he does not get job was not giving any work and they are giving artificial breaks.

Heard the learned counsel on either side.

In the writ petition, the petitioner has categorically asserted that he is a land oustee and to that effect a certificate was also issued by the

District Employment Officer dated 29.9.1993 and the Revenue Divisional Officer, Sangareddy dated 1.2.1993 to show that the petitioner is a land oustee and he is entitled for appointment. In fact, the petitioner was, thereafter, appointed as a Fitter on casual basis in the respondent- Company and of course, there were some artificial breaks in his service now and then. However, he was engaged from 15.10.1994 till 30.11.1996 in the respondent- Company.

Now the contention of the respondents is that the petitioner is not a land oustee and that he is not entitled for consideration under the scheme, which has been evolved and which is not in dispute.

The award passed by the Revenue Divisional Officer-cum-Land Acquisition Officer, Sangareddy, is placed before this Court by the Management, which would indicate that against Sy.No.383/A, a total extent of Ac.3.06 ½ guntas of land belonging to the petitioner herein and others was acquired and he was paid compensation of Rs.6,322-59 paise. After passing of the award

and payment of compensation, the petitioner was identified by the revenue officials as a land oustee and his name was sponsored by the District Employment Exchange and he was appointed as a Fitter. Now, discontinuing the services of the petitioner in the respondent-Company is arbitrary and illegal. Respondent is an instrumentality of the State and thus it is a 'state' for the purpose of Article 12 of the Constitution of India. Grievance of the petitioner herein is that he had been removed from service without following the prescribed procedure of law. It is to be seen that the petitioner is a workman. It is conceded that he is protected by the provisions under Chapters V-A and V-B of the Industrial Disputes Act.

In view of the above, I am of the opinion that the respondents have neither followed the principles of natural justice nor followed the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 while terminating the services of the petitioner. The respondents sought to terminate services of the petitioner on the misconception that he was not a land oustee.

Termination of the services of the petitioner is arbitrary and illegal. Therefore, the petitioner is entitled for reinstatement into service with full back wages and attendant benefits.

In the result, writ petition is allowed and the respondent-Management is directed to reinstate the petitioner into service forthwith with continuity of service, back wages attendant benefits etc., No costs.

12-03-2007

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